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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/590,041	08/18/2006	Satoshi Seo	0553-0508	4399

24628 7590 04/05/2012
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EXAMINER

JACKSON JR, JEROME

ART UNIT	PAPER NUMBER
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2815

MAIL DATE	DELIVERY MODE
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04/05/2012

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/590,041	Applicant(s) SEO ET AL.	
	Examiner JEROME JACKSON JR	Art Unit 2815	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 February 2012.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on ____; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 5) ☒ Claim(s) 1 and 17-35 is/are pending in the application.
- 5a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 6) ☐ Claim(s) ____ is/are allowed.
- 7) ☒ Claim(s) 1 and 17-35 is/are rejected.
- 8) ☐ Claim(s) ____ is/are objected to.
- 9) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/16/11;10/7/09</u> . | 6) <input type="checkbox"/> Other: ____. |

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1 and 17-35 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Kido '401, of record.

Kido discloses a mixed layer 4-1 in figure 41 adjacent an "electrode" comprising layers 2 and 3-1. Applicant's recitation of "electrode" is broad here and does not distinguish over Kido where a voltage is applied to mixed layer 4-1 and light emission unit 3-2 through the above "electrode" (2 and 3-1) and "electrode" 5. Therefore the new limitations do not structurally distinguish over Kido.

>While features of an apparatus may be recited either structurally or functionally, claims directed to >an< apparatus must be distinguished from the prior art in terms of structure rather than function. >*In re Schreiber*, 128 F.3d 1473, 1477-78, 44 USPQ2d 1429, 1431-32 (Fed. Cir. 1997) (The absence of a disclosure in a prior art reference relating to function did not defeat the Board's finding of anticipation of claimed apparatus because the limitations at issue were found to be inherent in the prior art reference); see also *In re Swinehart*, 439 F.2d 210, 212-13, 169 USPQ 226, 228-29 (CCPA 1971); <*In re Donly*, 263 F.2d 844, 847, 120 USPQ 528, 531 (CCPA 1959). "[A]pparatus claims cover what a device *is*, not what a device *does*." *Hewlett-Packard Co. v. Bausch & Lomb Inc.*, 909 F.2d 1464, 1469, 15 USPQ2d 1525, 1528 (Fed. Cir. 1990) (emphasis in original).

The label "electrode" is structural and functional here and does not distinguish over the "electrode" (2 and 3-1) of Kido which clearly functions as an "electrode" in order for a voltage to be applied across the light emitting unit 3-2 for emission of light.

Claims 1 and 17-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kido '401 with Tsutsui '166, of record.

The previous rejection with the above considerations of “electrodes” is applicable. It has been established that “electrode” is broad here and materials through which voltage is applied are “electrodes”. Tsutsui discloses that “mixed” layers of metal oxide and organic material are “electrodes” through which voltages are applied, and charge is injected, due to the voltage (or equivalent electric field set up by the voltage). There are no apparent unexpected results by substituting one known “electrode” or “charge injecting material” with another equivalent electrode or charge injecting material as disclosed in either Kido or Tsutsui.

Response to Arguments

Applicant's arguments filed 2/3/12 have been fully considered but they are not persuasive. Applicant argues that Kido's charge generation layer comprises separate layers of a metal oxide and an organic layer, however, the text of Kido appears to disclose the charge generation layer as being a mixed layer of metal oxide and organic layer, indistinguishable from applicant's mixed layer:

[0303]” In the EL device of Example 6, it is considered, like in Example 1, that a charge transfer complex (V.sub.2O.sub.5.sup.+ .alpha.-NPD.sup.+) was formed between molecules of the V.sub.2O.sub.5 and the .alpha.-NPD, a hole transporting arylamine molecule, by an oxidation reduction reaction. A mixed layer of the V.sub.2O.sub.5 and the .alpha.-NPD is functioned as the charge generation layer.”

There is no proof the “mixed layer” of applicant’s claim 1 is distinguished from Kido. Attorney allegations are neither proof nor persuasive that applicant's "mixed layer" is distinguished from Kido's charge generation "mixed layer".

Applicant’s argument that Kido’s mixed layer is “stacked” is also neither persuasive nor proof that Kido’s “mixed” layer is not a “mixed” layer, stacked or otherwise.

Arguments regarding the “electrode” of Kido have been addressed above.

Arguments regarding Tsutsui are also unpersuasive because it has been established above that "electrode" is broad and the claims are not distinguished over the "electrodes" of Kido or Tsutsui.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Art Unit: 2815

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JEROME JACKSON JR whose telephone number is (571)272-1730. The examiner can normally be reached on M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ken Parker can be reached on 571-272-2298. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jerome Jackson Jr./
Primary Examiner, Art Unit 2815